

H-8190

1 Amend House File 2460 as follows:

2 1. Page 17, after line 6 by inserting:

3 <DIVISION _____
4 WAGE PAYMENT COLLECTION

5 Sec. _____. Section 91A.5, subsection 1, unnumbered
6 paragraph 1, Code 2014, is amended to read as follows:

7 An employer shall have the burden to establish
8 that a deduction from employee wages is lawful. An
9 employer shall not withhold or divert any portion of
10 an employee's wages unless:

11 Sec. _____. Section 91A.5, subsection 1, paragraph b,
12 Code 2014, is amended to read as follows:

13 b. The employer has obtains advance written
14 authorization from the employee to so deduct for any
15 lawful purpose accruing to the benefit of the employee.

16 Sec. _____. Section 91A.6, subsection 1, Code 2014,
17 is amended to read as follows:

18 1. An employer shall ~~after being notified by the~~
19 ~~commissioner pursuant to subsection 2~~ do the following:

20 a. Notify its employees in writing at the time of
21 hiring what wages and regular paydays are designated
22 by the employer.

23 b. Notify its employees in writing whose wages are
24 determined based on a task, piece, mile, or load basis
25 about the method used to calculate wages and when the
26 wages are earned by the employees.

27 ~~b. c.~~ c. Notify, at least one pay period prior to the
28 initiation of any changes, its employees of any changes
29 in the arrangements specified in this subsection ± that
30 reduce wages or alter the regular paydays. The notice
31 shall either be in writing or posted at a place where
32 employee notices are routinely posted.

33 ~~e. d.~~ d. Make available to its employees upon written
34 request, a written statement enumerating employment
35 agreements and policies with regard to vacation pay,
36 sick leave, reimbursement for expenses, retirement
37 benefits, severance pay, or other comparable matters
38 with respect to wages. Notice of such availability
39 shall be given to each employee in writing or by a
40 notice posted at a place where employee notices are
41 routinely posted.

42 ~~d. e.~~ e. Establish, maintain, and preserve for three
43 calendar years the payroll records showing the hours
44 worked, wages earned, and deductions made for each
45 employee and any employment agreements entered into
46 between an employer and employee. Failure to do so
47 shall raise a rebuttable presumption that the employer
48 did not pay the required minimum wage under section
49 91D.1.

50 Sec. _____. Section 91A.6, subsection 2, Code 2014,

1 is amended by striking the subsection.

2 Sec. _____. Section 91A.6, subsection 4, Code 2014,
3 is amended by striking the subsection and inserting in
4 lieu thereof the following:

5 4. a. On each regular payday, the employer shall
6 send to each employee by mail or shall provide at the
7 employee's normal place of employment during normal
8 employment hours a statement showing the wages earned
9 by the employee, the deductions made for the employee,
10 and the following information, as applicable:

11 (1) For each employee paid in whole or in part on
12 an hourly basis, the statement shall show the hours the
13 employee worked.

14 (2) For each employee paid based on a percentage of
15 sales or based on a percentage of revenue generated for
16 the employer, the statement shall include a list of the
17 amount of each sale or the amount of revenue during the
18 pay period.

19 (3) For each employee whose pay is based on the
20 number of miles or loads performed, the statement shall
21 include the applicable number performed during the pay
22 period.

23 b. An employer who provides each employee access to
24 view an electronic statement of the employee's earnings
25 and provides the employee free and unrestricted access
26 to a printer to print the employee's statement of
27 earnings, if the employee chooses, is in compliance
28 with this subsection.

29 Sec. _____. Section 91A.8, Code 2014, is amended to
30 read as follows:

31 **91A.8 Damages recoverable by an employee.**

32 When it has been shown that an employer has
33 intentionally failed to pay an employee wages or
34 reimburse expenses pursuant to section 91A.3, whether
35 as the result of a wage dispute or otherwise, the
36 employer shall be liable to the employee for any the
37 unpaid wages or unreimbursed expenses that are so
38 intentionally failed to be paid or reimbursed, plus
39 liquidated damages, court costs, and any attorney's
40 attorney fees incurred in recovering the unpaid wages
41 or unreimbursed expenses and determined to have been
42 usual and necessary. ~~In other instances the employer~~
43 ~~shall be liable only for unpaid wages or expenses,~~
44 ~~court costs and usual and necessary attorney's fees~~
45 ~~incurred in recovering the unpaid wages or expenses.~~

46 Sec. _____. Section 91A.10, subsection 5, Code 2014,
47 is amended to read as follows:

48 ~~5. An employer shall not discharge or in any other~~
49 ~~manner discriminate against any employee because the~~
50 ~~employee has filed a complaint, assigned a claim, or~~

1 ~~brought an action under this section or has cooperated~~
2 ~~in bringing any action against an employer.~~

3 5. a. An employer or other person shall not
4 discharge or in any other manner discriminate or
5 retaliate against any of the following:

6 (1) An employee or other person for exercising any
7 right provided under this chapter or any rules adopted
8 pursuant to this chapter.

9 (2) Another employee or person for providing
10 assistance to an employee or providing information
11 regarding the employee or person.

12 (3) Another employee or person for testifying or
13 planning to testify in any investigation or proceeding
14 regarding the employee or person.

15 b. Taking adverse action against an employee or
16 other person within ninety days of an employee's or
17 other person's engaging in any of the activities in
18 paragraph "a" raises a presumption that such action was
19 retaliation, which may be rebutted by evidence that
20 such action was taken for other permissible reasons.

21 c. Any employee may file a complaint with the
22 commissioner alleging discharge, ~~or~~ discrimination,
23 or retaliation within thirty days after such
24 violation occurs. Upon receipt of the complaint, the
25 commissioner shall cause an investigation to be made
26 to the extent deemed appropriate. If the commissioner
27 determines from the investigation that the provisions
28 of this subsection have been violated, the commissioner
29 shall bring an action in the appropriate district court
30 against such person. The district court shall have
31 jurisdiction, for cause shown, to restrain violations
32 of this subsection and order all appropriate relief
33 including rehiring or reinstatement of the employee to
34 the former position with back pay.

35 Sec. ____. Section 91A.10, Code 2014, is amended by
36 adding the following new subsection:

37 NEW SUBSECTION. 6. A civil action to enforce
38 subsection 5 may also be maintained in any court of
39 competent jurisdiction by the commissioner or by any
40 party injured by a violation of subsection 5. An
41 employer or other person who retaliates against an
42 employee or other person in violation of subsection 5
43 shall be required to pay the employee or other person
44 an amount set by the commissioner or a court sufficient
45 to compensate the employee or other person and to deter
46 future violations, but not less than one hundred fifty
47 dollars for each day that the violation occurred.

48 Sec. ____. NEW SECTION. 91A.15 Commissions earned
49 date.

50 An employer shall not require that a person be a

1 current employee to be paid a commission that the
2 person otherwise earned.

3 Sec. ____ . EFFECTIVE DATE. This division of this
4 Act takes effect January 1, 2015.>

5 2. Title page, line 6, by striking < matters > and
6 inserting < matters, and including effective date
7 provisions >

8 3. By renumbering, redesignating, and correcting
9 internal references as necessary.

M. SMITH of Marshall